

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

SEP 27 2013

JULIA C. DUDLEY, CLERK
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WILLIAM F. BRECKENRIDGE,) CASE NO. 7:13CV00441

)

Petitioner,)

)

MEMORANDUM OPINION

v.)

)

COMMONWEALTH OF VIRGINIA,)

)

By: James C. Turk

Senior United States District Judge

Respondent.)

)

William F. Breckenridge, a Virginia inmate proceeding pro se, filed this petition for a writ of habeas corpus, pursuant to 28 U.S.C. § 2254, challenging the April 2008 judgment of the Circuit Court of Albemarle County under which he stands convicted of burglary, grand larceny, and petit larceny third offense, and sentenced to 22 years in prison. The court finds that the petition must be summarily dismissed as successive, pursuant to 28 U.S.C. § 2244(b).¹

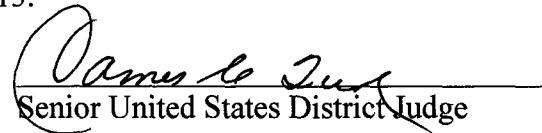
Court records indicate that Breckenridge previously filed a § 2254 petition concerning the same convictions, Breckenridge v. Barksdale, Civil Action No. 7:11CV00487, 2012 WL 2789739 & 2789743 (W.D. Va. 2012). Thus, Breckenridge's current petition is a subsequent one, falling under the prohibition in 28 U.S.C. § 2244(b) against second or successive petitions.

Pursuant to § 2244(b), a federal district court may consider a second or successive § 2254 petition only if petitioner secures specific certification from the United States Court of Appeals for the Fourth Circuit that the claims in the petition meet certain criteria. § 2244(b)(3). Because Breckenridge does not demonstrate that he has obtained such certification by the Court of Appeals, the court will dismiss the petition without prejudice as successive. An appropriate order will enter this day.

¹ Under Rule 4(b) of the Rules Governing § 2254 Cases, the court may summarily dismiss a § 2254 petition “[i]f it plainly appears from the petition and any attached exhibits that the petitioner is not entitled to relief in the district court.”

The Clerk is directed to send copies of this memorandum opinion and accompanying order to petitioner.

ENTER: This 27th day of September, 2013.



Senior United States District Judge